

Serial No: 09/757,842
Art Unit: 3634

Atty. Docket No. 102088-300

REMARKS

Claims 1-3, 5, 11, 18-24 and 31-34 are pending in the application. In the present Office Action, the Examiner withdrew claims 3, 11, 19, and 21-24 from consideration as being directed to a non-elected invention and examined claims 1, 2, 5, 18, 20, and 31-34. Claims 1, 2, 5, 18, 20, and 31-34 were rejected for the reasons of record.

In this Amendment and Reply Claims 1, 5, 18, and 31 are amended, Claims 2, 3, 11, 19 and 21-24 are cancelled without prejudice, and claims 35-43 are newly added. Accordingly, Claims 1, 5, 18, 20 and 31-43 are presented for further examination. Applicants expressly reserve the right to file one or more continuation and divisional applications to continue prosecution of all canceled claims and any further claims that may be appropriate.

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Explanation of Above Amendments:

Claims 1, 18, and 31 are amended to overcome the Examiner's rejection of these claims, as described in further detail below. Claim 5 is amended to conform to the amendments made in claim 1. These amendments find support throughout Applicant's as-filed specification, drawings, and claims, particularly in FIGs. 53-56 and the corresponding detailed description of these figures. No new matter has been added.

Newly added claims 35-42 find support throughout Applicant's as-filed specification, drawings, and claims, particularly in FIGs. 53-56 and the corresponding detailed description of these figures. For example, claims 35 and 39 find support in FIG. 55 (as indicated at 790) and the corresponding written description at page 18, lines 26-32; claims 36, 37, 40, and 41 find support in FIG. 55 and the corresponding written description at page 17, lines 20-24 and page 18, lines 12-24; claims 38 and 42 find support in FIGs. 55 and 56 and the corresponding written description at page 17, line 25 to page 18, line 3; and claim 43 finds support in FIG. 56 and the corresponding written description at page 18, lines 12-17. No new matter has been added.

Election/Restriction:

In the Office Action, the Examiner acknowledged Applicants' election made in a Reply to Written Restriction/Election Requirement having a mailing date of July 15, 2002.

Serial No: 09/757,842
Art Unit: 3634

Atty. Docket No. 102088-300

Furthermore, the Examiner withdrew claims 3, 11, 19, and 21-24 from consideration as being directed to a non-elected invention. Claims 3, 11, 19, and 21-24 have been canceled without prejudice. Applicants expressly reserve the right to file one or more divisional applications to continue prosecution of all canceled claims and any further claims that may be appropriate.

Drawing Objections:

The Examiner has objected to the drawings under 37 C.F.R. 1.83(a) as allegedly not showing every feature of the invention specified in the claims. More specifically, the Examiner alleges that a tray held so that a bottom wall of the tray has a front to back declination is not shown. Applicants have canceled claim 2, rendering this objection moot. Accordingly, reconsideration and withdrawal of this objection is respectfully requested.

Specification Objections:

The Examiner notes that, on page 4, line 17, "Fig. 14 is a front view" should be --Fig. 14 is a bottom view--, and on line 19, "Fig. 16 is a front view" should be --Fig. 16 is a bottom view--. Applicants have amended the specification as requested by the Examiner. Accordingly, reconsideration and withdrawal of this objection is respectfully requested.

Claim Rejections under 35 U.S.C. §112:

Claims 18 and 20 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, the Examiner alleges that the recitation of "either" in claim 18 renders the claim indefinite. Applicants have amended claim 18 to delete the recitation of "either". Accordingly, Applicants respectfully request that the rejection of claims 18 and 20 under 35 U.S.C. §112, second paragraph, be reconsidered and withdrawn.

Claim Rejections under 35 U.S.C. §102:

Claim 18 stands rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Simon et al. (U.S. Patent No. 4,537,316). This rejection is hereinafter traversed and reconsideration is requested for the following reasons.

Serial No: 09/757,842
Art Unit: 3634

Atty. Docket No. 102088-300

Simon et al. fails to teach each and every limitation of Applicant's claim 18. More specifically, Simon et al. fails to teach a product holding element including:

a pair of separated, spaced apart brackets, each having an engagement member disposed thereon for engaging an associated feature of the engagement features, and

a tray for containing products, the brackets being disposed on opposing sides of the tray, wherein each bracket supports an associated bottom edge of the tray as recited in claim 18. Rather than teaching separated, spaced apart brackets for supporting bottom edges of a tray, Simon teaches a tray (23) having central and flanking hooks (27 and 28) formed thereon for direct connection to the column 40. Accordingly, Applicants respectfully request that the rejection of claim 18 under 35 U.S.C. §102(b) as being anticipated by Simon et al. be reconsidered and withdrawn.

Claim Rejections under 35 U.S.C. §103:

Simon et al. in view of Allsop

Claims 1, 2, 5, and 18 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Simon et al. in view of Allsop et al. (U.S. Patent No. 4,687,094). More specifically, the Examiner alleges that Simon et al. discloses all limitations of the claims except that the tray is made out of corrugated material. The Examiner further alleges, *inter alia*, that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tray of Simon et al. to be a corrugated tray with brackets as taught by Allsop et al. in order to have trays that are lightweight. Claim 2 has been canceled, rendering the rejection of this claim moot. With respect to the remaining claims, Applicants respectfully traverse this rejection for the following reasons.

First, one skilled in the art would have no motivation to modify the tray of Simon et al. to use a corrugated tray with brackets as taught by Allsop et al.. Simon et al. describes a versatile modular display having two identical, plastic trays 20A and 20B attached to an upright column 40. Each of the plastic trays includes a bottom wall 21, a rear wall 22, end walls 23a and 23b, partitions 24 parallel to the end walls, and front flanges 25. A rear ledge 26 extends from the rear wall 22, and on the rear ledge 26 are four integral hooks consisting of two central hooks 27, and two flanking hooks 28a and 28b. The positioning of the hooks 27, 28a, and 28b allow the

Serial No: 09/757,842
Art Unit: 3634

Atty. Docket No. 102088-300

trays 20A and 20B to be arranged in many different configurations. In one configuration, the trays 20A and 20B are arranged side-by-side (FIG. 10). In another configuration, one tray 20A is configured as the base of the upright column 40. Indeed, Simon et al. recognizes the versatility of the display as an advantage over the prior art (Col. 1, lines 54-58).

Allsop et al., on the other hand, teaches the use of mounting adaptors 74 for suspending a container 42 from a pegboard or slotboard. The mounting adaptors 74 extend from sidewalls of the container 42 and receive mounting connectors, such as J-hooks, for suspending the container 42 from the pegboard or slotboard. It is unclear how the J-hook and mounting adaptor arrangement of Allsop et al. could be coupled to the display of Simon et al. Moreover, even if one skilled in the art were able couple the J-hook and mounting adapter arrangement of Allsop et al. to the display of Simon et al., there would be no motivation to do so because this would render inoperative an important feature of the display of Simon et al. -- its versatility. For example, the arrangement of Allsop et al. requires one J-hook and mounting adapter per side of the container. This arrangement would preclude the side-by-side arrangement of trays taught by Simon et al. In addition, in the arrangement of Allsop et al., the container is *suspended* from the J-hooks. This arrangement would preclude the use of the tray as the base of the display, as is taught by Simon et al.

In summary, one skilled in the art would have no motivation to modify the tray of Simon et al. to use a corrugated tray with brackets as taught by Allsop et al. because this would render inoperable an important feature taught by Simon et al. Accordingly, Applicants respectfully request that the rejection of claims 1, 5, and 18 under 35 U.S.C. §103(a) as being unpatentable over Simon et al. in view of Allsop et al. be reconsidered and withdrawn.

Second, even if Simon et al. and Allsop et al. were combined, the combination fails to teach or suggest each and every limitation of Applicant's independent claims 1 and 18. More specifically, Simon et al. and Allsop et al., whether alone or in combination, fail to teach or suggest a product holding element including:

a pair of separated, spaced apart brackets, each having an engagement member disposed thereon for engaging an associated feature of the engagement features, and

a tray for containing products, the brackets being disposed on opposing sides of the tray, wherein each bracket supports an associated bottom edge of the tray

Serial No: 09/757,842
Art Unit: 3634

Atty. Docket No. 102088-300

as recited in independent claims 1 and 18. Rather than teaching separated, spaced apart brackets for supporting bottom edges of a tray, Simon et al. teaches trays 23 each having central and flanking hooks 27 and 28 formed thereon for direct connection to the column 40. As noted above, the arrangement of the central and flanking hooks 27 and 28 allow for versatile arrangement of the trays. Simon et al. does not teach or suggest the use of separated, spaced apart brackets for supporting edges of the tray. Allsop et al. fails to cure this deficiency. As described above, Allsop et al. teaches suspending a container 42 from J-hooks by attaching mounting adaptors 74 to the sidewalls of the container 42. Allsop et al. does not teach or suggest the use of separated, spaced apart brackets for supporting bottom edges of a tray. Because neither Allsop et al. nor Simon et al. teach or suggest this limitation, the combination of these references also fails to teach or suggest this limitation. Accordingly, for at least this additional reason, Applicants respectfully request that the rejection of claims 1 and 18, and claim 5 which is dependent on claim 1, under 35 U.S.C. §103(a) as being unpatentable over Simon et al. in view of Allsop et al. be reconsidered and withdrawn.

Zoltan et al. in view of Mangrum et al.

Claims 1, 2, 18, and 20 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Zoltan et al. (U.S. Patent No. 5,513,745) in view of Mangrum et al. (U.S. Patent No. 6,068,140). More specifically, the Examiner alleges that Zoltan et al. disclose a retail display system that meets all limitations of these claims except that the panel (12) of Zoltan et al. does not support trays. The Examiner further alleges that it would have been obvious to modify the panel of Zoltan et al. with provisions of engagement apertures and trays thereof as taught by Mangrum et al. in order to have a tier of removable trays to support items thereon and to enable collapsing to a flattened position for bulk shipment. Claim 2 has been canceled, rendering the rejection of this claim moot. With respect to the remaining claims, Applicants respectfully traverse this rejection for the following reasons.

The combination of Zoltan et al. and Mangrum et al. fail to teach or suggest each and every limitation of applicant's claims 1, 18, and 20. More specifically, Zoltan et al. and Mangrum et al., whether alone or in combination, fail to teach or suggest a product holding element including:

Serial No: 09/757,842
Art Unit: 3634

Atty. Docket No. 102088-300

a pair of separated, spaced apart brackets, each having an engagement member disposed thereon for engaging an associated feature of the engagement features, and

a tray for containing products, the brackets being disposed on opposing sides of the tray, wherein each bracket supports an associated bottom edge of the tray as recited in Applicant's independent claims 1 and 18. As indicated by the Examiner, Zoltan et al. fails to teach or suggest the use of a tray. Thus, Zoltan et al. could not teach or suggest separated, spaced apart brackets for supporting bottom edges of a tray. On the other hand, Mangrum et al. teaches the use of trays 14. However, the trays 14 of Mangrum et al. are installed on a frame 12 by anchors 92, which are formed on the back of the tray 14. The anchors 92 extend into slots 54 disposed in the frame 12. Mangrum et al. does not teach or suggest the use of separated, spaced apart brackets for supporting bottom edges of the tray. Because neither Zoltan et al. nor Mangrum et al. teach or suggest this limitation, the combination of these references also fails to teach or suggest this limitation. Accordingly, Applicants respectfully request that the rejection of claims 1 and 18, and claim 20 which is dependent on claim 18, under 35 U.S.C. §103(a) as being unpatentable over Zoltan et al. in view of Mangrum et al. be reconsidered and withdrawn.

Zoltan et al. in view of Mangrum et al. and Bustos

Claim 31 stands rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Zoltan et al. in view of Mangrum et al. as applied to claims 1, 2, 18 and 20, and further in view of Bustos (U.S. Patent No. 4,760,928). More specifically, the Examiner alleges that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified panel of Zoltan et al. and Mangrum et al. with provisions of a plastic cap as taught by Bustos in order to protect the edges of the panel and to provide stability to the panel. This rejection is hereinafter traversed, and reconsideration requested for the following reasons.

First, neither Zoltan et al., Mangrum et al., nor Bustos, alone or in combination, teach or suggest

a generally rectangular central portion of a folded box construction formed in major part of material selected from the group consisting of boxboard and corrugated plastic and fibrous materials; and

Serial No: 09/757,842
Art Unit: 3634

Atty. Docket No. 102088-300

at least left and right plastic frame members *secured along left and right side edges of the central portion*

as recited in Applicant's claim 31. As indicated by the Examiner, neither Zoltan et al. nor Mangrum et al. teach or suggest the use of left and right plastic frame members. Bustos, on the other hand, teaches the use of a plastic reinforcing cap 96 for securing rigid rod reinforcements to the edges of a display case. However, the reinforcing cap of Bustos is not *secured along left and right side edges of the central portion*, as in Applicant's claimed invention. Instead, the reinforcing cap of Bustos is attached to the ends of the side panels 16 and 18. Accordingly, neither Bustos, Zoltan et al., nor Mangrum et al., alone or in combination, teach or suggest the use of plastic frame members *secured along left and right side edges of the central portion* as recited in Applicant's claim 31. Because Zoltan et al. in view of Mangrum et al. and Bustos fail to teach each and every limitation of Applicant's claim 31, Applicants respectfully request that the rejection of this claim under 35 U.S.C. §103(a) as being unpatentable over Zoltan et al. in view of Mangrum et al. and Bustos be reconsidered and withdrawn.

Second, the Examiner alleges that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the modified panel of Zoltan et al. and Mangrum et al. with provisions of a plastic cap as taught by Bustos in order to protect the edges of the panel and to provide stability to the panel. However, Bustos describes the plastic caps as being used for securing rigid rod reinforcements 90 and 92 to the side panels. Bustos describes the *rods*, not the plastic caps, as providing stability to the case. (See, Col. 2, lines 9-14 and Col. 3, line 67 to Col. 4, line 10.) Accordingly, one skilled in the art would not be motivated to use plastic frame members of Bustos to protect the edges of the panel and to provide stability to the panel, as alleged by the Examiner. Accordingly, for at least this additional reason, Applicants respectfully request that the rejection of claim 31 under 35 U.S.C. §103(a) as being unpatentable over Zoltan et al. in view of Mangrum et al. and Bustos be reconsidered and withdrawn.

Zoltan et al. in view of Mangrum et al. and Everett

Claims 32-34 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Zoltan et al. in view of Mangrum et al. as applied to claims 1, 2, 18, 20, and 31 and further in view of Everett (U.S. Patent No. 4,606,467). This rejection is hereinafter traversed, and reconsideration requested for the following reasons.

Serial No: 09/757,842
Art Unit: 3634

Atty. Docket No. 102088-300

Neither Zoltan et al., Mangrum et al., nor Bustos, alone or in combination, teach or suggest

a generally rectangular central portion of a folded box construction formed in major part of material selected from the group consisting of boxboard and corrugated plastic and fibrous materials; and

at least left and right plastic frame members *secured along left and right side edges of the central portion*

as recited in Applicant's claim 31, from which claims 32-34 depend. As indicated by the Examiner, neither Zoltan et al. nor Mangrum et al. teach or suggest the use of left and right plastic frame members. Everett also fails to teach or suggest at least left and right plastic frame members *secured along left and right side edges of the central portion*, as recited in Applicant's claim 31. Because neither Zoltan et al., Mangrum et al. nor Everett teach or suggest this limitation, the combination of these references also fails to teach or suggest this limitation. Accordingly, Applicants respectfully request that the rejection of claims 32-34, which depend from claim 31, under 35 U.S.C. §103(a) as being unpatentable over Zoltan et al. in view of Mangrum et al. and Everett be reconsidered and withdrawn.

Regarding claim 32, neither Zoltan et al., Mangrum et al., nor Everett teach or suggest a shelf assembly comprising:

a corrugated tray; and

left and right molded plastic brackets respectively having the left and right engagement features of the shelf assembly

as recited in claim 32. Zoltan et al. fails to teach or suggest the use of a tray. Mangrum et al. teaches the use of trays 14. However, the trays 14 of Mangrum et al. are not corrugated. Moreover, the trays 14 of Mangrum et al. are installed on a frame 12 by anchors 92, which are formed on the back of the trays 14, and molded plastic brackets are not used. Everett, which teaches the use of wire holders and does not discuss the use of trays, also fails to cure this deficiency. Accordingly, neither Zoltan et al., Mangrum et al. nor Everett, alone or in combination, teach or suggest *a corrugated tray; and left and right molded plastic brackets respectively having the left and right engagement features of the shelf assembly*, as recited in Applicant's claim 32. For this additional reason, Applicants respectfully request that the

Serial No: 09/757,842
Art Unit: 3634

Atty. Docket No. 102088-300

rejection of claim 32 under 35 U.S.C. §103(a) as being unpatentable over Zoltan et al. in view of Mangrum et al. and Everett be reconsidered and withdrawn.

Regarding claim 34, neither Zoltan et al., Mangrum et al., nor Everett teach or suggest *a pair of left and right generally quadrilateral trim panels held by associated forwardly open channels in the left and right frame members, respectively*, as recited in claim 34. Accordingly, for at least this additional reason, Applicants respectfully request that the rejection of claim 34 under 35 U.S.C. §103(a) as being unpatentable over Zoltan et al. in view of Mangrum et al. and Everett be reconsidered and withdrawn.

Conclusion

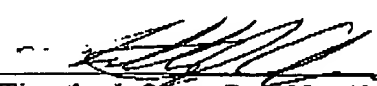
It is believed that the foregoing remarks are fully responsive to the Office Action and that claims 1, 5, 18, 20 and 31-43 are in condition for allowance. Accordingly, reconsideration and allowance is requested.

If the Examiner has any questions or believes that a discussion with Applicant's attorney would expedite prosecution, the Examiner is invited and encouraged to contact the undersigned at the telephone number below.

The Examiner is hereby authorized to apply any credits or charge any deficiencies related to this Amendment to our Deposit Account No. 23-1665.

Respectfully submitted,
Edward R. KNAPP III et al.

Date: January 9, 2004


Timothy J. Olson, Reg. No. 42,962
Attorney for Applicant

Direct: (203) 297-3709
tolson@wiggin.com

WIGGIN & DANA LLP
One Century Tower
P.O. Box 1832
New Haven, Connecticut 06508-1832
Telephone: (203) 498-4400
Facsimile: (203) 782-2889